

109TH CONGRESS  
1ST SESSION

# S. 1844

To provide for full and open competition for Federal contracts related to  
Hurricane Katrina and Hurricane Rita reconstruction efforts.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 2005

Mr. VITTER introduced the following bill; which was read twice and referred  
to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To provide for full and open competition for Federal con-  
tracts related to Hurricane Katrina and Hurricane Rita  
reconstruction efforts.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Hurricane Katrina and  
5 Hurricane Rita Fairness in Contracting Act of 2005”.

6       **SEC. 2. COMPETITION REQUIREMENTS.**

7       In entering into a contract to procure property or  
8 services in connection with Hurricane Katrina or Hurri-  
9 cane Rita reconstruction efforts, the head of an executive  
10 agency shall comply with the requirements under section

1 303 of the Federal Property and Administrative Services  
 2 Act of 1949 (41 U.S.C. 253), except that the exceptions  
 3 to the requirement for competitive procedures provided  
 4 under paragraphs (3), (4), and (7) of subsection (c) of  
 5 such section shall not apply to such contract.

6 **SEC. 3. WRITTEN APPROVAL FOR USE OF NON-COMPETI-**  
 7 **TIVE PROCEDURES REQUIRED FOR CERTAIN**  
 8 **CONTRACTS.**

9 (a) APPROVAL REQUIRED.—The head of an executive  
 10 agency may enter into a contract to procure property or  
 11 services in connection with Hurricane Katrina or Hurri-  
 12 cane Rita reconstruction efforts using other than full and  
 13 open competition only upon the written approval of the  
 14 President or the President’s designee.

15 (b) CONGRESSIONAL NOTIFICATION REQUIRED.—In  
 16 any case in which procedures other than full and open  
 17 competitive procedures are to be used to enter into such  
 18 a contract, the head of such executive agency shall submit  
 19 not later than 7 calendar days before the award of the  
 20 contract a notification to the Committee on Appropria-  
 21 tions of the Senate, the Committee on Appropriations of  
 22 the House of Representatives, and the standing commit-  
 23 tees of the Senate and the House of Representatives that  
 24 have jurisdiction over the executive agency. Such notifica-  
 25 tion shall provide the justification for use of other than

1 full and open competitive procedures, a brief description  
 2 of the contract's scope, the amount of the contract, a dis-  
 3 cussion of how the contracting agency identified and solic-  
 4 ited offers from contractors, a list of the contractors solic-  
 5 ited, and the justification and approval documents (as re-  
 6 quired under section 303(f)(1) of the Federal Property  
 7 and Administrative Services Act of 1949 (41 U.S.C.  
 8 253(f)(1)) on which was based the determination of use  
 9 of procedures other than full and open competitive proce-  
 10 dures.

11 (c) SCOPE OF REQUIREMENTS.—

12 (1) SIZE OF CONTRACTS.—This section shall  
 13 not apply to contracts of less than \$5,000,000.

14 (2) APPLICABILITY.—This section also shall  
 15 apply to any extension, amendment or modification  
 16 of contracts for the procurement of property or serv-  
 17 ices in connection with Hurricane Katrina or Hurri-  
 18 cane Rita reconstruction efforts entered into prior to  
 19 the enactment of this Act using other than full and  
 20 open competitive procedures.

21 (3) SMALL BUSINESS EXCEPTION.—This sec-  
 22 tion shall not apply to contracts authorized by the  
 23 Small Business Act (15 U.S.C. 631 et seq.).

24 **SEC. 4. DISCLOSURE REQUIRED.**

25 (a) PUBLICATION AND PUBLIC AVAILABILITY.—

1           (1) IN GENERAL.—The head of an executive  
2 agency that enters into a contract for the procure-  
3 ment of property or services in connection with Hur-  
4 ricane Katrina or Hurricane Rita reconstruction ef-  
5 forts through the use of other than full and open  
6 competitive procedures shall publish in the Federal  
7 Register or Federal Business Opportunities, and  
8 otherwise make available to the public not later than  
9 7 calendar days before the date on which the con-  
10 tract is entered into, the following information:

11                   (A) The amount of the contract.

12                   (B) A brief description of the scope of the  
13 contract.

14                   (C) A discussion of how the executive  
15 agency identified, and solicited offers from, po-  
16 tential contractors to perform the contract, to-  
17 gether with a list of the potential contractors  
18 that were issued solicitations for the offers.

19                   (D) The justification and approval docu-  
20 ments (as required under section 303(f)(1) of  
21 the Federal Property and Administrative Serv-  
22 ices Act of 1949 (41 U.S.C. 253(f)(1)) on  
23 which was based the determination to use pro-  
24 cedures other than competitive procedures.

25           (2) SCOPE OF REQUIREMENTS.—

1 (A) SIZE OF CONTRACTS.—This section  
2 shall not apply to contracts of less than  
3 \$5,000,000.

4 (B) APPLICABILITY.—This section shall  
5 also apply to any extension, amendment, or  
6 modification of contracts entered into prior to  
7 the enactment of this Act using other than full  
8 and open competitive procedures.

9 (C) SMALL BUSINESS EXCEPTION.—This  
10 section shall not apply to contracts authorized  
11 by the Small Business Act (15 U.S.C. 631 et  
12 seq.).

13 (b) RELATIONSHIP TO OTHER DISCLOSURE LAWS.—  
14 Nothing in this section shall be construed as affecting obli-  
15 gations to disclose United States Government information  
16 under any other provision of law.

17 **SEC. 5. CONTRACTS ENTERED INTO UNDER UNUSUAL AND**  
18 **COMPELLING URGENCY EXCEPTION.**

19 (a) REQUIREMENT FOR PERFORMANCE WITHIN 6-  
20 MONTH PERIOD.—The head of an executive agency may  
21 not rely on the exception provided under section 303(c)(2)  
22 of the Federal Property and Administrative Services Act  
23 of 1949 (41 U.S.C. 253(c)(2)) to enter into a contract  
24 to procure property or services in connection with Hurri-  
25 cane Katrina or Hurricane Rita reconstruction efforts

1 using procedures other than competitive procedures unless  
2 the contract will be performed within a 6-month period.

3 (b) EXTENDED NOTIFICATION AND DISCLOSURE  
4 DEADLINES.—The notification and disclosure deadlines  
5 specified in section 3(b) and section 4(a)(1), respectively,  
6 shall be 7 calendar days after the date a contract is en-  
7 tered into in the case of a contract described in subsection  
8 (a).

9 **SEC. 6. DEFINITIONS.**

10 In this Act, the terms “full and open competitive pro-  
11 cedures” and “executive agency” have the meanings given  
12 such terms in section 4 of the Office of Federal Procure-  
13 ment Policy Act (41 U.S.C. 403).

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